

REMARKS

Claims 1, 2, 7-11, 17-19, 47 and 48 are pending in this application. Applicant appreciates the thorough examination of the present application as evidenced by the Office Action dated May 2, 2006 (hereinafter, "Office Action"). Applicant further appreciates the Examiner's acknowledgment that the written description and enablement rejections have been withdrawn and that the claim rejections under 35 U.S.C. § 102(e) have been overcome. Applicant respectfully submits that Claims 1, 2, 7-11, 17-19, 47 and 48 are not obvious under 35 U.S.C. §103(a).

More specifically, Claims 1, 2, 7-11, 17-19, 47 and 48 stand rejected as being obvious over U.S. Patent Application Serial No. 2003/0215421 to McDonald et al. (hereinafter, "McDonald et al.") and U.S. Patent No. 6,914,128 to Salfeld et al. (hereinafter, "Salfeld") in view of U.S. Patent No. 5,641,867 to Stern et al. (hereinafter, "Stern et al.").

The Office Action asserts that McDonald et al. "describes a variety of compounds that can be used for the treatment of these diseases, among these are included antibodies targeting the non-chemokine receptor EMAP II." Office Action, page 3. Applicant respectfully submits that McDonald et al. describes conjugates that may include antibodies that bind EMAP II and a chemokine receptor targeting agent. *See* McDonald et al., Abstract and paragraph [0247].

As noted in the Office Action, Salfeld et al. describes the use of human antibodies that bind human IL-12 for treatment of diseases. *See* Office Action, page 3. The reference also suggests that the antibody can be used in combination with antibodies that target EMAP II in addition to a laundry list of other possibilities for use in combination with human IL-12.

Lastly, Stern et al. merely describes EMAP II in a buffer as discussed in the Office Action on page 3.

In order to establish a *prima facie* case of obviousness, (1) the cited references must teach or suggest all the claim recitations, (2) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine

reference teachings in order to arrive at the claimed invention and (3) there must be a reasonable expectation of success.

Considering the references in their totality for the complete disclosure that they provide, the references fail to direct one of skill in the art to arrive at a method of **facilitating vascular growth in cardiac muscle** of a human subject in need of such treatment, comprising inhibiting activity of EMAP II of SEQ ID NO:4 in said human subject by **administering an antibody that specifically binds to EMAP II of SEQ ID NO:4** as recited in Claim 1. Instead, one skilled in the art would merely surmise that antibodies that bind to EMAP II may be used as an adjunct therapy to a primary treatment for the disorders described therein. None of the cited references teach or suggest using **EMAP II** for the treatment described therein.

The Court of Appeals for the Federal Circuit has further stated that, to support combining or modifying references, there must be **particular** evidence from the prior art as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed. *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000). In considering the cited references, it is clear that these references merely suggest that an antibody that binds EMAP II is but among a laundry list of supplemental components for use with a primary therapy for a laundry list of indications. Applicant respectfully submits that the outstanding rejection is based on a selective **picking and choosing** of language from the cited references using the present specification as a guide. From the perspective of one skilled in the art at the time of invention, working without knowledge of the present specification, the combination of the cited references would not guide one to arrive at the present application without undue experimentation.

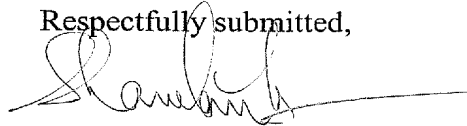
Accordingly, Applicant respectfully submits that Claims 1, 2, 7-11, 17-19, 47 and 48 are not obvious in view of the cited references, and Applicant respectfully requests that this rejection be withdrawn.

In re: Schwarz
Serial No.: 09/733,306
Filed: December 8, 2000
Page 4 of 4

Conclusion

In view of the foregoing remarks, Applicant respectfully requests that the outstanding rejection to the claims be withdrawn and that a Notice of Allowance be issued in due course. The Examiner is invited and encouraged to contact the undersigned directly if such contact will expedite the prosecution of the pending claims to issue. In any event, any questions that the Examiner may have should be directed to the undersigned, who may be reached at (919) 854-1400.

Respectfully submitted,



Shawna Cannon Lemon
Registration No. 53,888

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec, P.A.
P. O. Box 37428
Raleigh, North Carolina 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401

CERTIFICATION OF TRANSMISSION UNDER 37 CFR § 1.8

I hereby certify that this correspondence is being transmitted electronically to the U.S. Patent and Trademark Office on Nov. 2, 2006 using the EFS:

Signature: Sarah Abraham Date: Nov. 2, 2006
Typed or Printed Name of Person Signing Certificate: Sarah Abraham